

2014-1258

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

ALLVOICE DEVELOPMENTS US, LLC,

Plaintiff-Appellant,

v.

MICROSOFT CORPORATION,

Defendant-Appellee.

*Appeal from the United States District Court for the Western District of
Washington in Case No. 2:10-cv-02102, Judge Richard A. Jones*

**UNOPPOSED MOTION FOR A 21-DAY EXTENSION OF TIME TO FILE
APPELLEE'S RESPONSIVE BRIEF**

Edward R. Reines
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
(650) 802-3022

David J. Lender
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue, 32nd Floor
New York, NY 10153
(212) 310-8000

Douglas W. McClellan
WEIL, GOTSHAL & MANGES LLP
700 Louisiana, Suite 1700
Houston, TX 77002
(713) 546-5000

Attorneys for Defendant-Appellee Microsoft Corporation.

September 23, 2014

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Defendant-Appellee Microsoft Corporation (“Appellee”) respectfully requests that this Court grant a 21-day extension of time, to and including Friday, October 31, 2014, within which to file Appellee’s responsive brief (“Appellee’s Brief”) in the above appeal. Appellee’s Brief is currently due on Friday, October 10, 2014, according to Federal Rules of Appellate Procedure 26(a)(1)(C), 26(a)(6)(A), and 26(c), Federal Circuit Rule 31(a)(1)(A) and 5 U.S.C. § 6103(a) (and as verified by the Federal Circuit PACER website). Counsel for Plaintiff-Appellant Allvoice Developments US, LLC (“Appellant”) has been contacted by Appellee regarding Appellee’s request for a 21-day extension of time to file Appellee’s Brief, and counsel for Appellant does not oppose this motion.

This appeal was previously stayed at the request of Appellant pending the decision of the Supreme Court in *Alice Corporation Pty. Ltd. V. CLS Bank Int’l*. That request was unopposed by Appellee and was granted.

This is Appellee’s first request for an enlargement of time in this appeal. In support of the good cause requirement of Federal Circuit Rule 26(b)(4), a declaration of Appellee’s counsel is attached which demonstrates that there is good cause for this Motion. See Declaration of Douglas McClellan, at 2.

Accordingly, Appellee respectfully requests that the Court grant Appellee’s unopposed motion for an extension of time of 21 days, to and including Friday

October, 31, 2014 within which to file Appellee's Responsive Brief. For the Court's convenience, a proposed order is attached.

Respectfully submitted,

/s/ Douglas W. McClellan

Douglas W. McClellan

*Counsel for Defendant-Appellee
Microsoft Corporation*

CERTIFICATE OF INTEREST

No. 14-1258

Counsel for Defendant-Appellee certify the following:

1. The full name of every party or amicus represented by me is:

Microsoft Corp.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

N/A

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

N/A

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or are expected to appear in this court are:

See attached.

Dated: September 23, 2014

/s/ Douglas W. McClellan

Douglas W. McClellan

*Counsel for Defendant-Appellee
Microsoft Corporation*

LIST OF COUNSEL FOR APPELLEE MICROSOFT CORP.

David Jason Lender
Alfredo Perez de Alejo*
Julian Moore*
Paul E Torchia*
Steven Kalogeras*
WEIL GOTSHAL & MANGES
767 5TH AVE
NEW YORK, NY 10153
212-310-8000

Stephen M. Rummage
Benjamin J Byer
DAVIS WRIGHT TREMAINE
1201 THIRD AVENUE
SUITE 2200
SEATTLE, WA 98101-3045
206-622-3150

Edward Reines
WEIL GOTSHAL & MANGES
201 REDWOOD SHORES PARKWAY
REDWOOD SHORES, CA 94065
650-802-3000

David E. Killough
MICROSOFT CORP.
ONE MICROSOFT WAY
REDMOND, WA 98052
425-703-8865

Doug McClellan
Joshua Davis*
WEIL GOTSHAL & MANGES
700 LOUISIANA
SUITE 1600
HOUSTON, TX 77002
713-546-0000

Eric Hugh Findlay
Findlay Craft
6760 Old Jacksonville Hwy, Suite 101
Tyler, TX 75703
903-534-1100

*Formerly associated with specified law firm

2014-1258

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

ALLVOICE DEVELOPMENTS US, LLC,

Plaintiff-Appellant,

v.

MICROSOFT CORPORATION,

Defendant-Appellee.

*Appeal from the United States District Court for the Western District of
Washington in Case No. 2:10-cv-02102, Judge Richard A. Jones*

**[PROPOSED] ORDER GRANTING APPELLEE’S UNOPPOSED MOTION
FOR A 21-DAY EXTENSION OF TIME TO FILE APPELLEE’S
RESPONSIVE BRIEF**

Defendant-Appellee Microsoft Corporation (“Appellee”), having moved without opposition for a 21-day extension of time to file Appellee’s responsive brief (“Appellee’s Brief”), and good cause therefor being shown:

IT IS HEREBY ORDERED that the motion be Granted. Appellee’s Brief is now due on or before October 31, 2014.

For the Court

2014-1258

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

ALLVOICE DEVELOPMENTS US, LLC,

Plaintiff-Appellant,

v.

MICROSOFT CORPORATION,

Defendant-Appellee.

*Appeal from the United States District Court for the Western District of
Washington in Case No. 2:10-cv-02102, Judge Richard A. Jones*

**DECLARATION OF DOUGLAS MCCLELLAN IN SUPPORT OF
APPELLEE’S UNOPPOSED MOTION FOR A 21-DAY EXTENSION OF
TIME TO FILE APPELLEE’S RESPONSIVE BRIEF**

I, Douglas McClellan, Esq. declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an attorney admitted to practice in the state of Texas and before this Court. I am a partner in the law firm of Weil, Gotshal & Manges LLP, and counsel of record in this Court for Defendant-Appellee Microsoft Corporation (“Appellee”) in this appeal. I submit this declaration in support of Appellee’s unopposed motion for a 21-day extension of the deadline for the filing of Appellee’s principal brief, from October 10, 2014 to October 31, 2014.

2. No briefing extension requested by Appellee has previously been granted. This is the first time that Appellee has sought any extension in this appeal. Appellee did not oppose Appellant's requested for a stay pending the decision of the Supreme Court in *Alice Corporation Pty. Ltd. V. CLS Bank Int'l*. That request was granted.

3. The Appellant's Brief raises a number of different issues to be addressed in Appellee's Responsive Brief. One of Appellee's counsel of record, David Lender, had back surgery in late August and is just recently back to work full-time. Despite working diligently to prepare the Responsive Brief, counsel for Appellee has concluded that it is necessary to seek the present extension of time in order to balance various obligations in the schedules of the individual attorneys involved, and to properly review the relevant materials, research the issues, and prepare and finalize the Appellee's brief in a manner that will be of greatest assistance to the Court. In addition, it is expected that confidential versions of the briefs and appendices in this case will likely be required, and the additional requested time will allow counsel and their staff to comply with the Court's rules governing electronic filing of such documents.

4. Appellee's request for an extension of time is in good faith and for good cause, not to delay these proceedings beyond the time period requested, which is believed to be the minimum period needed under the current circumstances.

5. Appellee's counsel communicated with counsel for the Appellant via e-mail. Appellant agreed not to oppose the Appellee's request for the aforementioned extension.

6. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 23rd day of September, 2014, at Houston, Texas.

/s/ Douglas W. McClellan

Douglas W. McClellan

*Counsel for Defendant-Appellee
Microsoft Corporation*

CERTIFICATE OF SERVICE

Pursuant to FED. R. APP. P. 25, I hereby certify that I caused the foregoing Unopposed Motion For A 21-Day Extension Of Time To File Appellee's Responsive Brief to be served via the Court's ECF system, electronic mail and Federal Express on the counsel for Appellants listed below on September 23, 2014:

Ian B. Crosby
Rachel S. Black
Daniel J. Shih
SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, Washington 98101
(206) 516-3880

Chris Paul Perque
GARDERE WYNNE SEWELL LLP
1000 Louisiana Street, Suite 3400
Houston, Texas 77002
(713) 276-5500

Dated: September 23, 2014

Respectfully submitted,

/s/ Douglas W. McClellan
Douglas W. McClellan
WEIL, GOTSHAL & MANGES LLP
700 Louisiana, Suite 1700
Houston, TX 77002
(713) 546-5000